

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re application of
Pascazi

Examiner: Congvan Tran

Serial No: 09/902,466

Art unit: 2617

Filed: July 10, 2001

For: SYSTEM AND METHOD FOR CELL PHONE SIGNAL TRANSMISSION
VIA THE INTERNET

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REQUEST FOR REHEARING
37 CFR 41.52

Mail Stop Appeal Brief-Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sirs:

In response to the Board Decision dated September 7, 2012, please enter the following Request for Rehearing.

History

As per the Office Action of May 1, 2009, the present claims 1-3 and 5-17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Heinonen et al. (U.S. Patent No. 6,816,719) in view of Klindworth (6,771,701).

A (replacement -corrected) Appeal Brief was submitted in December 2009. The Examiner provided an Examiner Answer in February 2010 and a Reply Brief was submitted in April 2010.

On September 7, 2012, the Board issued the present decision confirming the Examiner's rejection.

Brief Statement of Misapprehension

Appellant has argued that there is no teaching or suggestion in either the Heinonen or Klindworth references to combine the type of echo cancellers discussed in Klindworth with the voice communications of Heinonen (to the limited extent they are discussed in Heinonen) to render the present claims obvious under 35 U.S.C. § 103.

Appellant respectfully submits that the Board and Examiner have misapprehended the argument presented. The argument is not that there is absolutely no voice communications at all in Heinonen. Rather the argument is that the Heinonen reference has a very limited discussion of voice communications; that Heinonen does not mention the use of an internet protocol interface maintaining an echo canceller/equalizer module, that Klindworth also does not teach an internet protocol interface maintaining an echo canceller/equalizer module, but rather only teaches a standard cell tower communication echo cancellation unlike the one claimed.

There is no teaching or suggestion to apply a Klindworth echo cancellation module as cited by the Examiner to the VoIP arrangement of Heinonen as these are different types of "echo cancellation." As such, the claims are not obvious under 35 USC § 103. As best understood, neither the Examiner nor the present Board Decision appears to address this issue raised in the Appeal and Reply Briefs. Appellant requests reconsideration of the arguments as clarified below.

Argument

Without reiterating the full arguments of Appeal Brief, Appellant argued that the Heinonen reference pertains to a method and system for making profile information concerning users of a wireless network available to other users. [col. 2, lines 46-64] The profile information includes information on whether a user's device on the network is operational or not. The profile information may also include stored user data [col. 2, lines 64 – col. 3, lines 1-5]. Unlike the present invention, Heinonen's method and system transmits data that is not time sensitive to the extent that fractions of a second would affect the functionality of the method or system, because *Heinonen's system does not transmit live voice input*. (Appellant addresses the issue of Heinonen's VoIP disclosure in more detail below)

It is the Examiner's position that one could use the Klindworth's echo canceller in Heinonen's invention to remove acoustical and electrical echoes that occur due to reflections in signal. However, this alone is not sufficient to sustain an obviousness rejection.

Heinonen's method and system merely transmits profile information where there is no negative effect to a short time delay. *There are no acoustical and electrical echoes in such communications.* Therefore, it would not make sense to add the echo-cancelling method of Klindworth or any such echo-cancelling architecture/method, to Heinonen's internet profile information transmitter, whether or not it allows for VoIP communications.

Thus, there is no teaching, suggestion, or motivation in the Heinonen and Klindworth references that would cause a user of ordinary skill in the art to combine the

references as suggested by the Examiner. On the contrary, as it stands, the Examiner appears to be using the language of the independent claims as a blueprint and working backwards to form the rejection without articulating a reasoning with a rational underpinning for one of ordinary skill in the art to make such a combination.

In the Examiner's answer, on page 5, the Examiner states:

“Appellant's main argument is that “unlike the present invention, Heinonen's method does not transmit live voice input.” The Examiner respectfully disagrees. Heinonen's system enhances the use of wireless terminals by sending the profile information through the wireless network. Although Heinonen has not discussed the limitation “transmit live voice input (engage in conversation); Examiner asserts that it is inherent for the wireless terminals such as wireless terminals 12/22 in fig 1 to be used to engage in a conversation (see fig. 1, wireless terminals 12/22 may be a wireless telephone or smart phone, col. 5, lines 41-50 Heinonen's reference)”

According to the first lines of page 4 of the Decision, the Board has accepted this point and thus concurs with the Examiner. The Board has additionally cited to col. 6, lines 1-9 of Heinonen.

However, as noted in the Reply Brief, Appellant notes that even if the Examiner determines that the Heinonen reference does indeed relate to the transmission of real time voice information (or VoIP calls), then, the delays associated with Heinonen's system, i.e. fractions of a second, which have no effect upon the integrity of profile or stored information, would render the real time voice information unintelligible. In other words, the echo would be so long that the conversation would be incomprehensible.

Additionally, given that delay does not affect the integrity of stored or profile information, but does impact real time voice communications, there would be no impetus to combine Heinonen with Kindworth, by individuals skilled in the art. The combination

which the Examiner claims is not obvious and is in fact detrimental to the performance of a real time voice communication.

Appellant respectfully submits that the Board and Examiner have misapprehended the above counterargument.

As pointed out by Appellant, Heinonen is almost universally related to an operational mode whiteboard. See col. 1, lines 23-36; col. 2, lines 51-63 and col. 3, lines 6-15 of Heinonen. The transfers of profile and operational status data over the internet between the head and branch offices as shown in Figure 1 of Heinonen are almost all data transfers. At col. 5, 63 to col. 6, line 9 Heinonen briefly mentions that some communications from device 12 at the head office WLAN 32 to a branch office WLAN 34 may use VoIP “where voice signals from the wireless terminal are transferred using the Internet and not the normal telephone lines.” There is no mention of the use of echo cancellation devices for the VoIP communications.

Appellant notes at this point that the present applications contemplates both cell tower type echo cancellation as well as the internet protocol interfaces each maintaining an echo canceller/equalizer module for different purposes.

See for example pages 13-14 of the specification which state:

“It should be noted that, in general, the distortion in cell to cell telephony is usually caused by the bouncing of the signal off of obstructions and by the boosting of the signal to cover long distances. These distortions usually take the form of lag time delay and echoing. These distortions are removed in regular cell calls by echo cancellers 48 and 48' and equalizers 46 and 46' located in first cell tower 22 and second cell tower 28.

However, in the aforementioned system 10, cell phone signal 14 does not only experience these problems as a result of obstructions or propagation boosting to cover distances of free air, but also, in system 10, cell phone signal 14 travels most of its distance through the internet or a private packet switched network, experiencing server delays and other signal distortions as a result of standard

problems associated with the internet. Cell tower echo cancellers 48 and 48' and cell tower equalizers 46 and 46' are able to cancel these effects the same as if the distortions were caused by open air obstructions. This stabilizes cell phone signal 14 and eliminates most of the lag delay in analog input 32 portion. Additionally, each of the two internet protocol interfaces 16 and 18 has internal echo cancelling and equalizing features, as represented by interface echo canceller/equalizer modules 54 and 54'." (emphasis added)

See for example independent claim 1 which includes, among other features, the feature of:

"...wherein said first and second internet protocol interfaces each maintain an echo canceller/equalizer module configured to correct distortions in said phone signal caused by the travel of said phone signal through free air, server delays and internet delays."

The Examiner's position is that it would be obvious to add the echo cancellation of Klindworth as noted in col. 1, lines 18-30 to the Heinonen arrangement to arrive at the present claims.

However, the Klindworth echo cancellers are only talking about the same kind of echo cancellers that are usually used in cell phone communications. There is no discussion of an echo canceller to address echo issues in internet transport time delays as in the present claims. The remainder of Klindworth discusses improvements to the signal detection and filtering used to improve on existing cell tower echo cancellation.

One of ordinary skill in the art would not have thought to apply the Echo cancellation as discussed in column 1 of Klindworth with any voice communications (VoIP), to the extent discussed at all, in the Heinonen arrangement as such combination appears to be combining incompatible elements.

Appellant respectfully requests rehearing of the appeal based on the above

Application No. 09/902,466
Request for Reconsideration Dated November 7, 2012
In Reply to Board Decision Dated September 7, 2012

remarks and request that the Examiner's rejection of the claims be reversed.

In view of the forgoing, Appellant respectfully submits that the present invention as claimed is now in condition for allowance.

Applicants do not believe any additional fees are due under 37 CFR 41.52 for this request for rehearing, but in any event, expressly authorize the U.S. Patent and Trademark Office to charge any necessary fees required for the submission of this paper to prevent abandonment of this file, to be charged to deposit account # 19-2825, order number 844-002.

Respectfully submitted

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Dated: November 7, 2012

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